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Arizona Corporation Commission

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DOCKET NO. T-03891A-00-0413

CARL J. KUNASEK
CHAIRMAN
JIM IRVIN
COMMISSIONER
WILLIAM A. MUNDELL
COMMISSIONER

IN THE MATTER OF THE APPLICATION OF
EVULKAN, INC. D/B/A BEMANY! FOR A
CERTIFICATE OF CONVENIENCE AND
NECESSITY TO PROVIDE COMPETITIVE
INTRASTATE TELECOMMUNICATIONS
SERVICES AS A RESELLER EXCEPT LOCAL
EXCHANGE SERVICES

PROCEDURAL ORDER**BY THE COMMISSION:**

On June 13, 2000, eVulkan, Inc. d/b/a beMANY! ("Company") filed with Docket Control of the Arizona Corporation Commission ("Commission") an application for a Certificate of Convenience and Necessity ("Certificate") to provide competitive intrastate telecommunications services as a reseller, except local exchange services, within the State of Arizona. The Company is required to publish notice of its filing in newspapers in all counties where service is to be provided. The record shows that the Company has published notice with affidavits of publication filed with the Commission on August 11, 2000. On September 18, 2000, the Commission's Utilities Division Staff ("Staff") filed its Staff Report in this matter.

On August 29, 2000, the Arizona Court of Appeals, Division One, ("Court") issued its Opinion in Cause No. 1 CA-CV 98-0672 ("Opinion"). The Court determined that Article XV, Section 14 of the Arizona Constitution requires the Commission to "determine fair value rate base ("FVRB") for all public service corporations in Arizona prior to setting their rates and charges." Although that Opinion will more than likely be appealed to the Arizona Supreme Court, we are going to request FVRB information at this time to insure compliance with the Constitution should the ultimate decision of the Supreme Court affirm the Court's interpretation of Section 14. We also are concerned that the cost and complexity of FVRB determinations must not offend the Telecommunications Act of 1996.

The time frame for processing the Company's application is March 20, 2001.

1 Pursuant to A.R.S. § 40-282, the Commission may act on an application for a Certificate to
2 provide resold telecommunications services without a hearing, or with a hearing if one is requested
3 by any party.

4 The Commission now issues this Procedural Order to govern the preparation and conduct of
5 this proceeding.

6 IT IS THEREFORE ORDERED that the deadline for processing this application shall be
7 March 20, 2001.

8 IT IS FURTHER ORDERED that intervention shall be in accordance with A.A.C. R14-3-105
9 except that all motions to intervene must be filed on or before October 27, 2000.

10 IT IS FURTHER ORDERED that eVulkan, Inc. d/b/a beMANY! shall file its proposed
11 FVRB within 30 days of the date of this Order (pursuant to A.A.C. R14-2-103(B), this may be the
12 same as original cost rate base). The FVRB shall include the value of all plant and equipment
13 currently held by the Company and intended to be used to provide telecommunications services to
14 Arizona customers. In doing so, eVulkan, Inc. d/b/a beMANY! may use any reasonable means of
15 asset allocation, direct assignment or combination thereof.

16 IT IS FURTHER ORDERED that eVulkan, Inc. d/b/a beMANY! shall file a description of all
17 plant and equipment currently held by the Company and intended to be used to provide
18 telecommunications services to Arizona customers, including their cost and location, within 30 days
19 of the date of this Order.

20 IT IS FURTHER ORDERED that eVulkan, Inc. d/b/a beMANY! shall file information
21 demonstrating how the value of the Company's plant and equipment (both current and projected) is
22 related to its total service long-run incremental costs within 30 days of the date of this Order (such
23 demonstration must include the amount of depreciation expense and capital carrying costs related to
24 the FVRB which has been incorporated into the long-run incremental costs).

25 IT IS FURTHER ORDERED that for all maximum rates and charges of eVulkan, Inc. d/b/a
26 beMANY! which are higher than those of the incumbent local exchange carrier ("ILEC") for the
27 same regulated services, eVulkan, Inc. d/b/a beMANY! must demonstrate that such rates and charges
28 are not unreasonable, and constitute a fair rate of return on FVRB (if there is more than one ILEC in

1 your proposed service area, use Qwest Corporation as a surrogate ILEC for the entire state).

2 IT IS FURTHER ORDERED that Staff shall review the FVRB information filed and ascertain
3 that eVulkan, Inc. d/b/a beMANY! is utilizing the appropriate amount of depreciation and capital
4 carrying costs in determining its total service long-run incremental costs.

5 IT IS FURTHER ORDERED that Staff or Intervenors shall file disagreements with the
6 proposed FVRB and/or rates and charges, as well as request a hearing, within 60 days of this Order.

7 IT IS FURTHER ORDERED that the time periods specified herein shall not be extended
8 pursuant to Rule 6(a) or (e) of the Arizona Rules of Civil Procedure.

9 IT IS FURTHER ORDERED that the Presiding Officer may rescind, alter, amend or waive
10 any portion of this Procedural Order by subsequent Procedural Order or by ruling at hearing.

11 DATED this 3rd day of October, 2000.

12 
13 ALICIA GRANTHAM
14 ADMINISTRATIVE LAW JUDGE

15 Copies of the foregoing mailed/delivered
16 this 3rd day of October, 2000 to:

17 George Jankovic, President
18 EVULKAN, INC. D/B/A BEMANY!
19 100 Broadway, 21st Floor
20 New York, New York 10271

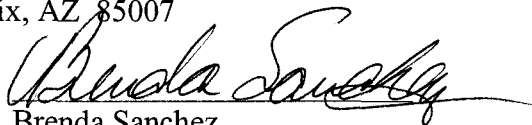
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Brenda Sanchez
Secretary to Alicia Grantham